

**REMARKS**

**I. Non-compliance**

In response to the notice of non-compliance dated October 14, 2005 referencing the response filed on October 3, 2005, this response has been amended to show a complete and accurate listing of all claims ever presented.

**II. General**

Claims 21-45 are pending in the present application. Claims 21-33, 36, 39 and 40 have been amended by the present response. The outstanding issues in the current Office Action are as follows:

Claims 21-45 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-12 of U.S. Patent No. 6,678,155.

Claims 24-26, 36-38, and 43-45 are objected to as being dependent upon a rejected base claim, but are allowable if rewritten in independent form including the limitations of the base claims and any intervening claims.

Claims 21-23, 27-29, 33-35, and 39-42 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,128,504 (hereinafter, Ciccone).

Claims 21-23, 27-29, 33-35, and 39-42 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,058,019 (hereinafter, Graves).

Claims 30-32 have not been addressed in the rejection of record.

Applicant respectfully requests withdrawal of the rejections in light of the amendments and remarks contained herein.

**III. Amendments**

Claim 21-32 have been amended to recite “at least two computer server modules.” Support can be found in the specification on page 10, lines 15-18. No new matter has been added.

Claim 33 has been amended to recite “computer servers.” Support can be found in the specification on page 10, lines 15-18. No new matter has been added.

Claim 36 has been amended to correctly refer to the antecedent “a plurality of computer servers.” No new matter has been added.

Claim 39 has been amended to correctly depend from independent claim 33. No new matter has been added.

Claim 40 has been amended to recite “a plurality of computer servers.” Support can be found in the specification on page 10, lines 15-18. No new matter has been added.

**IV. Double Patenting**

Claims 21-45 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-12 of U.S. Patent No. 6,678,155. Applicant respectfully requests that the obviousness-type double patenting rejection be held in abeyance until prosecution on the merits is complete, then Applicant will file a terminal disclaimer, if the claims at that time are properly subject to an obviousness-type double patenting rejection.

**V. Rejections Under 35 U.S.C. §102(e)****A. As Being Anticipated by *Ciccone***

On page 3 of the Office Action claims 21-23, 27-29, 33-35, and 39-42 stand rejected under 35 U.S.C. § 102(e) as being anticipated by *Ciccone*.

In order for a claim to be properly rejected under 35 U.S.C. § 102(e), the applied reference must teach each and every element of the claimed invention. “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” M.P.E.P. § 2131 (citing *Verdegaal*

Bros. v. Union Oil Co. of California, 814 F.2d 628, 631 (Fed. Cir. 1987)). Moreover, “[t]he identical invention must be shown in as complete detail as is contained in the ...claim.” M.P.E.P. § 2131 (citing Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236 (Fed. Cir. 1989)). Applicant respectfully asserts that the rejection of record does not satisfy these requirements.

### **Independent Claims**

Claims 21, 27, 33, and 40 all recite “computer server(s)” in claims of differing scopes. Ciccone does not anticipate, at least, this limitation. The Examiner asserts that Ciccone discloses at least one server module 20. However, the Ciccone teaches that 20 is a cordless telephone handset. Figure 1, and column 4, lines 8-9. A cordless telephone handset is not a computer server module. Thus, the cordless handsets of Ciccone do not anticipate the computer server modules as claimed. Therefore, Ciccone does not show the identical invention in as complete as detail as contained in claims 21, 27, 33, and 40. Accordingly, Applicant respectfully requests the withdrawal of the 35 U.S.C. § 102 rejection of record.

### **Dependent Claims**

Claims 22-23, 28-29, 34-35, 39, 41-42 depend either directly or indirectly from, and inherit all of the limitations of their respective independent claim 21, 27, 33, and 40, shown above to be allowable. Therefore, claims 22-23, 28-29, 34-35, 39, 41-42 are allowable, at least, because of their dependence from their respective independent claims. Accordingly, Applicant respectfully requests withdrawal of the 35 U.S.C. § 102 rejection of record.

### **B. As Being Anticipated by *Graves***

On page 4 of the Office Action claims 21-23, 27-29, 33-35, and 39-42 stand rejected under 35 U.S.C. § 102(e) as being anticipated by *Graves*. Applicant traverses the rejection and asserts the claims are allowable, at least, for the reasons stated below.

### **Independent Claims**

Claims 21 and 27 recite “at least two computer server modules,” and claims 33 and 40 recite “a plurality of computer servers.” *Graves* does not teach either of these limitations. Figure 1, cited to by the Examiner, shows “[s]ystem 100 comprises a frame 101 for housing various electronic modules.” Column 5, lines 1-3. *Graves* does not disclose that the various electronic modules comprise at least two computer servers or a plurality of computer servers.

In fact, the electronic modules of Graves consist of an electronic drawer 102 that provides the basic logic and memory functions for operation of system 100, power drawer 103, which converts power from an external voltage source, and storage drawers 104-107, each of which may contain multiple rotating magnetic disk storage devices for storing data. Column 5, lines 7-27. Thus, there is no disclosure in the description for Figure 1 that these modules comprise at least two computer servers modules or a plurality of computer server modules. Therefore Graves does not show the identical invention in as complete detail as contained in the claim. Accordingly, Applicant respectfully requests the withdrawal of the 35 U.S.C. § 102 rejection of claims 21, 27, 33, and 40.

### **Dependent Claims**

Claims 22-23, 28-29, 34-35, 39, and 41-42 depend either directly or indirectly from, and inherit all of the limitations of their respective independent claim 21, 27, 33, and 40, shown above to be allowable. Therefore, claims 22-23, 28-29, 34-35, 39, 41-42 are allowable, at least because of their dependence from their respective independent claims. Accordingly, Applicant respectfully requests withdrawal of the 35 U.S.C. § 102 rejection of record.

### **VI. Allowable Subject Matter**

On page 5 of the Office Action claims 24-26, 36-38, and 43-45 stand objected to as being dependent upon a rejected base claim, but are allowable if rewritten in independent form including the limitations of the base claims and any intervening claims. Applicant appreciates the Examiner indicating the above referenced claims as allowable if rewritten.

### **VII. Claims Not Addressed**

Claims 30-32 have not been addressed in the rejection of record. "In every Office Action, each pending claim should be mentioned by number, and its treatment or status given." M.P.E.P. § 707.07(i). Although mentioned on the cover page as standing rejected, the Examiner fails to disclose which section of 35 U.S.C. that the Examiner is relying on for their rejection of claims 30-32, or which art, if any, that the Examiner is applying in their rejection. Accordingly, Applicant respectfully asserts these claims are patentable over the applied art, especially in view of the Examiner's comments on page 5 of the Office Action

indicating similar limitations in other claims as allowable, if rewritten in independent form including all intervening limitations.

**VIII. Conclusion**

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

Applicant believes no fee is due with this response. However, if a fee is due, please charge Deposit Account No. 08-2025, under Order No. 10990473-3 from which the undersigned is authorized to draw.

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail, Label No. EV482709024US in an envelope addressed to: M/S Amendment, Commissioner for Patents, Alexandria, VA 22313.

Date of Deposit: October 25, 2005

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Respectfully submitted,

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